APPENDIX.

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED.*

PART 1—GENERAL PROVISIONS.

DEFINITIONS.

Section 1.1 Words in singular and plural form. Words used in the singular form in these rules and regulations shall be deemed to import the plural, and vice versa, as the case may require.

Sec. 1.2 Liability of principal for act of agent. The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust, within the scope of his employment or office, shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust as well as of such official, agent, or other person.

Sec. 1.3. Definitions. The following terms, as used in the Commodity Exchange Act or in these rules and regulations, shall have the meanings hereby assigned to them, unless the context otherwise requires:

(*a*) *Board of trade.*—This term means any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

(*b*) *Business day.*—This term means any day other than a Sunday or holiday. In all notices required by the act

* Regulations as to grain, only, are included herein.

or by these rules and regulations to be given in terms of business days the rule for computing time shall be to exclude the day on which notice is given and include the day on which shall take place the act of which notice is given.

(*c*) *Clearing member.*—This term means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a contract market.

(*d*) *Clearing organization.*—This term means the person or organization which acts as a medium for clearing transactions in commodities for future delivery, or for effective settlements of contracts for future delivery, for and between members of any board of trade.

(*e*) *Commodity.*[3]—This term means and includes wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, Irish potatoes, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal.

(*f*) *Commodity Exchange Act; the act.*[3]—These terms mean the Commodity Exchange Act, as amended by the act of Congress, approved April 7, 1938 (7 U. S. C. and Sup. V, secs. 1-17a), and as further amended by the act of Congress, approved October 9, 1940 (Public Law No. 818, 76th Cong.).

(*g*) *Administration.*[4]—This term means the Food Distribution Administration of the United States Department of Agriculture.

(*h*) *Contract market.*—This term means a board of

3. As amended April 18, 1938; and October 30, 1940, effective December 8, 1940.

4. As amended February 15, 1943.

trade designated by the Secretary of Agriculture as a contract market under the Commodity Exchange Act.

(*i*) *Contract of sale.*—This term includes sales, purchases, agreements of sale or purchase, and agreements to sell or purchase.

(*j*) *Controlled account.*—An account shall be deemed to be controlled by a person if such person by power of attorney or otherwise actually directs trading for such account.

(*k*) *Customer; commodity customer.*—These terms have the same meaning and refer to a customer trading in any commodity named in the definition of commodity herein.

(*l*) *Delivery month.*—This term means the month of delivery specified in a contract of sale of any commodity for future delivery.

(*m*) *Executing for others.*—This term as used in the definition of floor broker means executing by any person of orders, including his own, for the purchase or sale of any commodity for future delivery in the name of, or for the account of, more than one principal (clearing member).

(*n*) *Floor broker.*—This term means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall engage in executing for others any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market, and who for such services receives or accepts any commission or other compensation.

(*o*) *Future delivery.*—This term does not include any sale of a cash commodity for deferred shipment or delivery.

(*p*) *Futures commission merchant.*—This term means individuals, associations, partnerships, corporations, and

trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(*q*) *Member of a contract market.*—This term means and includes individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon.

(*r*) *Net equity.*—This term means the credit balance which would be obtained by combining the commodity margin balance of any person with the net profit or loss, if any, accruing on the open trades or contracts of such person.

(*s*) *Net deficit.*—This term means the debit balance which would be obtained by combining the commodity margin balance of any person with the net profit or loss, if any, accruing on the open trades or contracts of such person.

(*t*) *Open contracts.*—This term means contracts of purchase or sale of any commodity made by or for any person on or subject to the rules of a board of trade for future delivery during a specified month or delivery period which have not been fulfilled by delivery nor offset by other contracts of sale or purchase in the same commodity and delivery month.

(*u*) *Person.*—This includes individuals, associations, partnerships, corporations, and trusts.

(*v*) *Director.*[5]—This term means the Director of Food

5. Promulgated February 15, 1943.

Distribution of the United States Department of Agriculture or any officer or employee of the Administration to whom the Director has heretofore lawfully delegated, or to whom the Director may hereafter lawfully delegate, the authority to act in his stead.

Administration.

SEC. 1.4[6] Duties to be performed by Director. The Director shall perform for and under the supervision of the Secretary of Agriculture such duties as the Secretary may require in enforcing the provisions of the act and of the rules and regulations promulgated thereunder.

SEC. 1.5[7] Information confidential; disclosures to contract-market committees and officials. No officer or employee of the Department of Agriculture shall publish, divulge, or make known in any manner, except insofar as may be required in the performance of his official duties or by a court of competent jurisdiction, any facts or information regarding the business of any person which may come to the knowledge of such officer or employee through any inspection or examination of the reports or records of, or through any information given by, any person pursuant to the Commodity Exchange Act or these rules and regulations: *Provided, however,* That this prohibition shall not apply to disclosures made in good faith to the Business Conduct Committee or other proper committee or official of a contract market of matters in respect to which such contract market has responsibility or duty under the Commodity Exchange Act, or which, in the judgment of the Director, adversely affect such market or are prejudicial to the interests of producers or consumers.

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6. As amended April 8, 1942, and February 15, 1943.

7. As amended August 29, 1941, April 8, 1942, April 21, 1942, and February 15, 1943.

SEC. 1.6 Speculation in commodities by officers and employees prohibited. No officer or employee of the Department of Agriculture engaged in the administration or enforcement of the Commodity Exchange Act, or having access to any confidential information obtained under authority of the act, shall have any interest directly or indirectly in any speculative transaction in any commodity for future delivery.

Registration of Futures Commission Merchants and Floor Brokers.

SEC. 1.7[8] Registration required of futures commission merchants. No person shall engage as futures commission merchant in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market, unless such person shall have secured a certificate of registration as futures commission merchant under the Commodity Exchange Act issued by the Secretary of Agriculture and countersigned by the Director and such registration shall not have expired, been suspended, or been revoked. Such registration shall be required of every person engaged as herein described irrespective of whether accounting records relating to such orders and trades and contracts resulting therefrom are maintained by other futures commission merchants to whom such orders are transmitted for execution or clearance.

SEC. 1.8[9] Registration required of floor brokers. No person shall act as floor broker in executing any orders for the purchase or sale of any commodity for future de-

8. As amended November 19, 1938, effective January 1, 1939; April 8, 1942, and February 15, 1943.

9. As amended April 8, 1942, and February 15, 1943.

livery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have secured a certificate of registration as floor broker under the Commodity Exchange Act issued by the Secretary of Agriculture and countersigned by the Director and such registration shall not have expired, been suspended, or been revoked.

SEC. 1.9 Registration as floor broker not included in registration as futures commission merchant and vice versa. Registration as futures commission merchant shall not include registration as floor broker nor shall registration as floor broker include registration as futures commission merchant.

SEC. 1.10[10] Applications for registration required on prescribed forms; financial statements of futures commission merchants; registration suspended or revoked for willful misrepresentation. Application for registration as futures commission merchant shall be made on Form 1–R. Application for registration as floor broker shall be made on Form 2–R. Application forms may be obtained from the Administration, United States Department of Agriculture, Washington, D. C., or from any field office of the Compliance Branch thereof. Each application shall be executed and filed in accordance with the instructions appearing on the prescribed form.

Every application for registration as futures commission merchant other than an application necessitated solely by reason of a change in the name of the registrant shall be accompanied by a supplemental statement on Form 1–RF, showing the financial condition of the applicant as of a date not more than 6 months prior to the date of filing

10. As amended November 20, 1937, August 12, 1941, April 8, 1942, April 21, 1942, June 24, 1942, and February 15, 1943.

application: *Provided*, That the latest statement of financial condition submitted by the applicant to any commodity or securities exchange of which applicant is a member which includes substantially the same information concerning applicant's financial condition as that required on Form 1-RF, as of a date not more than 6 months prior to the filing of application, may be filed with the application in lieu of statement on Form 1-RF; *Provided further*, That in exceptional instances, upon good cause shown, the Director may extend, for not to exceed 60 days, the time for the filing of the applicant's financial statement.

Every statement on Form 1-RF and every statement filed in lieu thereof shall bear the verification of the applicant in the following form, to wit:

> Applicant represents that all information contained or incorporated in this financial statement is true to the best of applicant's knowledge and belief.
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> Dated at ....., the ..... day of ....., 19.....

If the applicant is a partnership, the financial statement shall be signed in the name of the partnership by a general partner and the signature witnessed. If the applicant is a sole proprietorship, the financial statement shall be signed by the proprietor and the signature witnessed. If the applicant is a corporation or other form of organization, the financial statement shall be signed in the name of the corporation or other organization by the president, vice president, or other principal officer, attested and the seal affixed by the secretary or other authorized officer.

Willful misrepresentation or concealment by the applicant (or registrant) of any material fact in an application for registration or in any statement supplemental thereto shall constitute cause for the suspension or revocation of registration.

Sec. 1.11[11] Registration fee; form of remittance. Each application for registration, or renewal thereof, shall be accompanied by a registration (or renewal) fee of ten dollars ($10), in the form of a money order, bank draft, or certified check, payable to the Treasurer of the United States, and the application and fee shall be forwarded to the Administration, Department of Agriculture, Washington, D. C.

Sec. 1.12[12] Posting of registration certificate; fee for duplicate. Every person registered as futures commission merchant under the act shall—

(a) post in a conspicuous place in each office in the United States maintained by such person in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted, the original or a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant; and

(b) post in a conspicuous place in each office in the United States in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted *for, and in the name of,* such registrant, a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant.

Duplicates of registration certificates may be procured on request on payment of two dollars ($2) for each duplicate. Remittances in payment of duplicates shall be made payable to the Treasurer of the United States. The word "DUPLICATE" in conspicuous letters shall appear on the face of each duplicate.

Sec. 1.13[13] Deposit of registration fee; fee not subject

11. As amended May 4, 1938 and April 8, 1942.
12. As amended November 19, 1938, effective January 1, 1939.
13. As amended April 8, 1942, and February 15, 1943.

to refund after registration; form of certificate. Upon receipt of an application for registration (or renewal thereof) the Secretary of Agriculture will, if the application be approved, issue a certificate of registration certifying that the registrant has registered under the act as futures commission merchant or as floor broker. The registration fee (including the fee for duplicate copies of the certificate of registration, if any) so tendered, shall be deposited in a special deposit account until the registration is finally issued or denied. If registration be denied, the fee shall be returned to the applicant, but if issued the fee shall be deposited in the Treasury of the United States as a miscellaneous receipt and will not thereafter be subject to refund. Each registration certificate shall bear a serial number, the signature of the Secretary of Agriculture, be issued under the seal of the United States Department of Agriculture, and be countersigned by the Director.

Sec. 1.14[14] Changes to be reported by futures commission merchants and floor brokers. The registrant shall file with the Administration a statement on Form 3-R setting forth any change which renders no longer accurate and current the information contained in any of the following enumerated items of the registrant's application for registration (or any statement supplemental thereto):

With respect to a futures commission merchant: Item 2 (address of principal office), item 3 (concerning general books and records), item 4 (form of organization), item 9 (addresses of branch offices and names of managers thereof, and location of branch offices in which there is maintained a separate and complete set of financial records of commodity customers' accounts), item 10 (agents authorized to solicit or accept

14. As amended November 19, 1938, effective January 1, 1939; and April 8, 1942.

commodity futures orders for, and in the name of, the registrant), and item 14 (refusal of, or suspension or expulsion from, commodity-exchange membership). Any change in the personnel of a partnership resulting from the death, withdrawal, or addition of a partner which, as a matter of law, does not create a new partnership may be reported on Form 3-R, as provided in section 1.15 hereof.

With respect to a floor broker: Item 2 (a) (business address), item 9 (names and addresses of clearing members through whom registrant clears commodity futures transactions for his own account), and item 11 (refusal of, or suspension or expulsion from commodity-exchange membership).

Upon discontinuing business as futures commission merchant or as floor broker the registrant shall immediately notify the Administration on Form 3-R.

All statements on Form 3-R shall be prepared and filed in accordance with the instructions appearing thereon.

Sec. 1.15[15] Changes requiring new registration. A new registration shall be required in the event of a change—

(a) in the name of the registrant;

(b) in the form of organization of the registrant;

(c) in the ownership of the business of the registrant in the case of a sole proprietorship; and

(d) in the personnel of a partnership resulting from the death, withdrawal, or addition of a partner: *Provided*, That if such change does not, as a matter of law, create a new partnership, it may be reported by the registrant to the Administration on Form 3-R within 10 days of the date of such change, and if so reported a new registration shall not be required.

Sec. 1.16 Registrations expire December 31 of each year. All registrations shall automatically terminate at

15. As amended November 20, 1937, effective January 1, 1938; and April 8, 1942.

midnight on December 31 of the year for which issued, unless sooner suspended or revoked in accordance with the provisions of the act and the rules and regulations thereunder.

Reports.

Sec. 1.17 Futures commission merchants to report annually on Form 150. [Revoked, June 3, 1942.]

Sec. 1.18[16] Futures commission merchants, on call, to report on Form 160. Each futures commission merchant shall, upon call from the Administration, report on Form 160. Such report shall be prepared in accordance with the instructions appearing on Form 160 and shall be filed with the Administration, United States Department of Agriculture, Washington, D. C., not later than the third business day following the date specified in the call. Reports received by mail will be considered duly filed if postmarked not later than midnight of such third business day.

Such report shall show as of the close of business on the day named in the call:

(a) the total amount of money and credits held or carried by such futures commission merchant for the account of his commodity customers, including margin moneys and moneys and credits resulting from the closed trades and contracts and accruing in connection with the open trades and contracts of such customers; and

(b) the total amount of money segregated and set apart for the benefit of commodity customers—

(1) on hand,

(2) on deposit in banks,

(3) pledged as margin with clearing organizations of contract markets,

(4) pledged as margin with members of contract markets,

16. As amended April 8, 1942.

(5) invested in securities described in section 4d (2) of the Commodity Exchanges Act, and

(6) loaned on security of warehouse receipts in accordance with the rules and regulations of the Secretary of Agriculture.

Sec. 1.19[16] Futures commission merchants, on call, to report names of persons exercising trading control over customers' accounts. Each futures commission merchant shall, upon call, file with the Administration a list of all persons who, by power of attorney or otherwise, exercise trading control over any account or accounts of any customer of such futures commission merchant with respect to contracts for the future delivery of any commodity on or subject to the rules of any contract market.

Sec. 1.19a[17] Contract-market members to report uncleared transactions ("pass-outs") on Form 110. Each member of a contract market who shall execute uncleared transactions (commonly known as "pass-outs") in any commodity for future delivery on or subject to the rules of such contract market shall report to the Administration on Form 110 applicable to such contract market each business day on which he shall execute such uncleared transactions. Such report shall be prepared and filed in accordance with the instructions appearing on Form 110, to be obtained from the Administration, and shall show accurately and fully the details of each such transaction, including the commodity, future, quantity, and price, and the name of the person from whom bought and to whom sold: *Provided*, That the requirements of this section shall not apply to any member of a contract market, all of whose uncleared transactions are recorded on the books and records of, and included in the purchases and sales reported to the Administration by, a clearing member (or clearing members) of such contract market.

16. As amended April 8, 1942.

17. Promulgated September 5, 1941, effective September 15, 1941; amended November 27, 1941 and April 8, 1942.

Customers' Funds

Sec. 1.20 Customers' funds to be segregated and separately accounted for. All money received by a futures commission merchant to margin, guarantee, or secure the trades or contracts of commodity customers and all money accruing to such customers as the result of such trades or contracts shall be separately accounted for and be segregated as belonging to such customers. Such funds, when deposited with any bank or trust company, shall be deposited under an account name which will clearly show that they are customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such bank or trust company waiving any claim, lien, or right of set-off of any nature which such bank or trust company might otherwise have or obtain against such funds. An executed copy of such agreement shall be kept as a permanent record by the futures commission merchant. If such funds are deposited with a clearing organization of a contract market, they shall be deposited under an account name which will clearly show that they are customers' funds segregated as required by the Commodity Exchange Act. Under no circumstances shall any portion of commodity customers' funds be obligated to the clearing organization of a contract market, or to any member of a contract market, except to margin, guarantee, secure, transfer, adjust, or settle trades and contracts made in behalf of such commodity customers.

Sec. 1.21 Care of money and equities accruing to customer. All money received directly or indirectly by, and all money and equities accruing to, a futures commission merchant from any clearing organization of any contract market, or from any member thereof or from any member of a contract market, incident to or resulting from any

trade or contract in commodity futures made by or through such futures commission merchant in behalf of any customer shall be considered as accruing to such customer within the meaning of section 4d (2) of the Commodity Exchange Act. Such money and equities shall be treated and dealt with as belonging to such customer in accordance with the provisions of the act. Money and equities accruing in connection with customers' open trades or contracts need not be separately credited to individual customers' accounts but may be treated and dealt with as belonging undivided to all customers having open trades or contracts which if closed at the settling price as fixed by the clearing organization would result in a credit to such customers.

Sec. 1.22 Use of money, securities, or property of customers restricted. No futures commission merchant shall use, or permit the use of, the money, securities, or property of one customer to margin or settle the trades or contracts, or to secure or extend the credit, of any person other than such customer. The net equity of one customer shall not be used to carry the trades or contracts or to offset the net deficit of any other customer or person or to carry the trades or offset the net deficit of the same customer in goods or property not included in the term "commodity" as defined herein.

Sec. 1.23 Interest of futures commission merchant in segregated funds, additions and withdrawals. The prohibition in section 4d (2) of the Commodity Exchange Act against commingling customers' funds with the funds of a futures commission merchant shall not be construed to prevent such futures commission merchant from having a residual financial interest in the funds segregated and set apart for the benefit of commodity customers, nor shall such prohibition be construed to prevent a futures commission merchant from adding to customers' segregated

funds from his own funds such amount or amounts of money as he may deem necessary to insure any and all customers' accounts from becoming undermargined at any time: *Provided, however,* That the books and records of such futures commission merchant shall at all times accurately reflect his interest in customers' segregated funds. Such futures commission merchant may draw upon such segregated funds to his own order to the extent of his actual interest therein: *Provided,* That such withdrawal shall not result in the money, securities, property, or equity of one customer being used to margin or carry the trades or contracts, or extend the credit, of any other customer or person.

Sec. 1.24 Segregated funds; exclusions therefrom. Money held in segregated account by a futures commission merchant shall not include: (a) money invested in obligations or stocks of any clearing organization, or in memberships in or obligations of any contract market; or (b) money held by any clearing organization of any contract market which may be used by such clearing organization for any purpose other than to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of the commodity customers of such futures commission merchant.

Sec. 1.25 Investment and lending of customers' money; conditions governing. Any futures commission merchant may, in accordance with the provisions of section 4d (2) of the Commodity Exchange Act,

(a) invest customers' money in obligations or investment securities as described in said section; and

(b) loan customers' money to other persons on the security of negotiable warehouse receipts conveying or securing title to readily marketable commodities, subject to the following conditions:

(1) that such warehouse receipts be issued by a public warehouseman other than such futures com-

mission merchant, licensed as warehouseman under the provisions of the United States Warehouse Act or the warehouse laws of any State; and

(2) the amount of any loan so made shall at no time exceed 85 percent of the current market value of the commodities represented by such warehouse receipts.

Sec. 1.26[18] Deposit of investment securities, obligations, and warehouse receipts. Each futures commission merchant who, in accordance with section 4d (2) of the act and with these rules and regulations, invests money belonging or accruing to customers in obligations or investment securities described in said section, or loans such money on the security of negotiable warehouse receipts, shall promptly—

(a) Deposit such obligations, securities, and warehouse receipts in safekeeping with a bank or trust company under an account name which will clearly show that they represent investments of, or security for loans of, customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such bank or trust company waiving any claim, lien, or right of set-off of any nature which such bank or trust company might otherwise have or obtain against such obligations, securities, and warehouse receipts, and authorizing inspection thereof at any reasonable time by representatives of the Administration; or

(b) Deposit such obligations, securities, and warehouse receipts with a clearing organization of a contract market under an account name which will clearly show that they represent investments of, or security for loans of, customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such clearing organization providing that such obligations, securities, and warehouse receipts are deposited solely to margin, guarantee, se-

18. As amended November 13, 1942.

cure, transfer, adjust, or settle the contracts or trades of the commodity customers of such futures commission merchant and waiving any other claim, lien, or right of set-off of any nature which such clearing organization might otherwise have or obtain against such obligations, securities and warehouse receipts. Such agreement shall authorize the inspection at any reasonable time by representatives of the Administration of such obligations, securities, and warehouse receipts.

An executed copy of the agreement prescribed herein shall be kept as a permanent record by the futures commission merchant.

Sec. 1.27 Permanent record of investments and loans. Each futures commission merchant who, in accordance with section 4d (2) of the act and with these rules and regulations, invests money belonging or accruing to customers in obligations or investment securities described in said section, or loans such money on the security of negotiable warehouse receipts, shall keep a permanent record showing the following:

(a) with respect to obligations and investments securities,

(1) the date on which such investments were made,

(2) the name of the person from or through whom such obligations or securities were bought,

(3) the amount of money paid for such obligations or securities,

(4) a description of such obligations or securities,

(5) the date on which disposition was made of such obligations or securities and the amount of money received therefor, and

(6) the name of the person to or through whom such obligations or securities were sold; and

(b) with respect to warehouse receipts,

(1) the date on which such loans were made,

(2) the name of the person to whom such funds were loaned,

(3) the amount loaned on the security of such warehouse receipts,

(4) a description of such warehouse receipts,

(5) the date and particulars of any changes or substitutions in the warehouse receipts held as security for such loans, and

(6) the date on which such loans were repaid.

Sec. 1.28 Appraisal of investment securities and obligations. Futures commission merchants who invest customers' money in obligations or investment securities under the provisions of section 4d (2) of the Commodity Exchange Act shall include such obligations or investment securities in segregated account at values which at no time shall be greater than current market value, determined as of the close of the market on the last preceding market day, less the cost of disposal.

Sec. 1.29[19] Increment or interest resulting from investment or lending of customers' funds. The investment and lending of customers' funds in accordance with the provisions of section 4d (2) of the Commodity Exchange Act and these rules and regulations and the deposit, in accordance with the provisions of section 1.26, of obligations, investments securities, and warehouse receipts, shall not operate to prevent the depositor from receiving and retaining as his own any increment or interest resulting therefrom.

Sec. 1.30 Loans by futures commission merchants; treatment of proceeds. Nothing contained in these rules and regulations shall be construed to prevent a futures commission merchant from lending his own funds to commodity customers on securities and property pledged by such customers, or from repledging or selling such securities

19. As amended November 13, 1942.

and property pursuant to specific written agreement with such customers: *Provided, however,* That the proceeds of such loans used to margin, guarantee, or secure the trades or contracts of such customers in any commodity for future delivery shall be treated and dealt with by such futures commission merchant as belonging to such customers, in accordance with and subject to the provisions of section 4d (2) of the Commodity Exchange Act.

RECORD KEEPING

Sec. 1.31 Books and records; keeping and inspection. All books and records required to be kept by the act or by these rules and regulations shall be kept for a period of 5 years from the date thereof and during the first 2 years of such period shall be readily accessible. All such books and records shall be open to inspection by any representative of the United States Department of Agriculture or the United States Department of Justice.

Sec. 1.31a[20] Compliance with sections 1.32-1.36. With respect to a futures commission merchant who transmits all customers' commodity futures orders, together with all money, securities, and property received to margin, guarantee, or clear the trades or contracts of such customers, to another futures commission merchant for execution or clearance, and the latter renders confirmations and statements of purchase and sale, and transmits remittances, direct to such customers, the requirements of section 1.32 to 1.36, inclusive, of these rules and regulations shall be deemed to be complied with if the books and records described in the aforesaid sections are prepared and kept, in the form and manner therein set forth, by either the futures commission merchant transmitting such orders or by the futures commission merchant to whom such orders are transmitted.

20. Promulgated November 19, 1938, effective January 1, 1939.

Sec. 1.32 Segregated account; daily computation and permanent record. The amount of money, securities, and property which must be in segregated account in order to comply with the requirements of section 4d (2) of the Commodity Exchange Act shall be computed by each futures commission merchant as of the close of the market each business day, based upon his accounting records. Such computation shall be made as promptly as possible and in any event not later than the next succeeding business day. A permanent record of such computation shall be made and kept in readily accessible form, together with all supporting data.

Sec. 1.33 Permanent record of customer's position in each future. Each futures commission merchant shall prepare and keep as a permanent record a statement which shows the position of each customer in each future of each commodity on each contract market as of the close of the last business day of each calendar month. Such statement may be prepared separately or may be combined with the statement required by section 1.34 hereof.

Sec. 1.34[21] Monthly record, "point balance"; semiannual record for each customer; information on call. Each futures commission merchant shall prepare and keep as a permanent record a statement, commonly known as a "point balance", which accrues or brings to the official closing price, or settlement price fixed by the clearing organization, all open trades or contracts of customers as of the last business day of each calendar month. Each futures commission merchant shall also prepare and keep as a permanent record a statement which shall show, as of the close of the last business day of his fiscal year and semiannually thereafter, (a) the net profit or loss (equity or deficit), based upon the closing price or settlement price

21. As amended April 8, 1942.

fixed by the clearing organization, accruing to each customer from the combined open trades or contracts of such customer, (b) the credit or debit balance of the commodity margin account of each customer, whether or not such customer has any trades or contracts open, and (c) a description of all securities and property in segregated account received from each customer to margin, guarantee, or secure the trades or contracts of such customer: *Provided*, That, upon call, a statement shall be prepared setting forth the information described in (a), (b), and (c) hereof, as of the close of the calendar month specified in the call: *Provided further*, That such statement when made upon call may, with the approval of the Administration, be substituted for, and used in lieu of, the next succeeding semiannual statement which would otherwise be required by the provisions of this section.

Sec. 1.35[21] Records of cash commodity and futures transactions. Each futures commission merchant and each member of a contract market shall keep full and complete records of all commodity futures transactions and cash commodity transactions, made by or through him, on or subject to the rules of a board of trade. Such records shall be kept systematically and in such manner as to be readily accessible. He shall keep such records, including all orders, trading cards, signature cards, street books, journals, ledgers, cancelled checks, copies of confirmations and copies of statements of purchase and sale, together with all other data and memoranda, and records of every sort pertaining to transactions in cash commodities and in commodities for future delivery, for a period of 5 years from the date thereof. He shall produce the same for inspection and shall furnish true and correct information and reports as to the contents or the meaning thereof,

21. As amended April 8, 1942

when and as requested by any authorized representative of the Administration.

Sec. 1.36 Record of securities and property received from customers. Each futures commission merchant shall keep, in permanent and readily accessible form, a record of all securities and property (other than money) received from customers in lieu of money to margin, guarantee, or secure the commodity trades and contracts of such customers. Such record shall include a description of the securities and property received from each customer, the name and address of such customer, the dates when such securities and property were received from and when returned to such customer, or otherwise disposed of, together with the facts and circumstances of such other disposition.

Sec. 1.37[22] Customer's name, address, and occupation recorded; record of guarantor or controller of account. Each futures commission merchant and each member of a contract market shall keep a record in permanent form which shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. Such record shall be open to inspection by any authorized representative of the Administration.

Sec. 1.38 "Transfer" or "office" trades, exchanges of futures; identification of and restrictions upon. Each member of a contract market, each futures commission merchant and each floor broker handling or executing trades or transactions known as transfer trades or office trades, or which involve the exchange of futures for cash commodities or the exchange of futures in connection with

22. As amended April 8, 1942.

cash commodity transactions, shall identify and mark by appropriate symbol or designation all such transactions and all records and memoranda pertaining thereto. No transaction or trade shall be considered to be a transfer trade or office trade or an exchange of futures for cash commodities or an exchange of futures in connection with cash commodities unless made in accordance with the written rules of a board of trade applying to such trades and transactions and such rules have not been disapproved by the Secretary of Agriculture.

[Sec. 1.39, Execution of Orders, amended and omitted.]

MISCELLANEOUS

Sec. 1.40[23] Crop, market information letters, reports; copies required. Each futures commission merchant and each member of a contract market shall, upon request, furnish or cause to be furnished to the Administration a true copy of any letter, circular, telegram, or report published or given general circulation by such futures commission merchant or member which concerns crop or market information or conditions that affect or tend to affect the price of any commodity, and the true source of or authority for the information contained therein.

Sec. 1.41[23a] Contract market rules, regulations; filing of copies. Each contract market shall promptly furnish to the Administration copies of all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof, or by any committee or clearing organization thereof, and of all changes and proposed changes therein, and shall notify the Administration promptly of all changes in its membership. Three copies of all such material shall be furnished to the Director.

23. As amended April 8, 1942.

23a. As amended April 8, 1942, and February 15, 1943.

United States Department of Agriculture, Washington, D. C., and one copy shall be furnished to the supervisor in charge of the field office of the Compliance Branch of the Administration having local jurisdiction with respect to such contract market.

Sec. 1.42[24] Delivery notice; filing of copy. Each contract market shall furnish or cause to be furnished promptly to the Administration a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Administration a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

Sec. 1.43[24] Information required concerning warehouses. Each contract market shall file with the Administration a list of all warehouses in which or out of which commodities are deliverable in satisfaction of futures contracts made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, together with the name and business address of the operator thereof. Such list shall be accompanied by a schedule of the storage charges, handling charges, and the annual fire insurance rate applicable to each such warehouse. The Administration shall be kept currently advised of all changes affecting such information.

Sec. 1.44[24] Warehouse records, reports; visitation of premises. Each contract market shall require the operators of warehouses whose receipts are deliverable in satisfaction of commodity futures contracts made on or subject to the rules of such contract market—

24. As amended April 8, 1942.

(a) to keep records showing the stocks of each commodity traded in for future delivery on such contract market, in store in such warehouses by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased warehouse space;

(b) upon call from the Administration, to report the stocks of commodities in such warehouses and to furnish information concerning stocks of each commodity traded in for future delivery on such contract market about to be transferred or in process of being transferred, or otherwise moved into or out of such warehouses, as well as any other information concerning commodities stored in such warehouses and which are or may be available for delivery on futures contracts; and

(c) to permit visitation of the premises and inspection of the books and records of such warehouses by duly authorized representatives of the United States Department of Agriculture or the Department of Justice, and to keep all books, records, papers, and memoranda relating to the storage and warehousing of commodities in such warehouses for a period of 5 years from the date thereof.

Sec. 1.45[25] Delivery of commodities conforming to United States standards. Each contract market shall require that all contracts of sale of any commodity for future delivery on or subject to the rules of such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards if such standards shall have been officially promulgated. In the event of a change in United States standards, all contracts made on and after the effective date of such change shall be made on the basis of the standards as changed: *Provided*, That this shall not be construed to prevent the closing of trades made prior to the effective date of such change.

25. As amended June 2, 1941.

PART 2.—SPECIAL PROVISIONS APPLICABLE TO GRAINS, FLAXSEED AND SOYBEANS[1]

REPORTING REQUIREMENTS

Section 2.00[2] **Definition; "grain."** The word "grain" as used in part 2 of these rules and regulations shall mean and include wheat, corn, oats, barley, rye, rice, flaxseed, grain sorghums, and soybeans.

Form 200

Sec. 2.01[3] Daily reports on Form 200 by clearing members; information shown. Each *clearing member* of each contract market shall report to the Administration each business day on Form 200 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 200, to be obtained from the Administration, and shall show accurately and fully the information called for with respect to all contracts of sale of grain for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market shall report separately with respect to each such market. Such report shall show separately for each kind of grain and each delivery month:

(a) the total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

1. Part 2 promulgated July 14, 1937, effective August 2, 1937; amended November 23, 1940, April 5, 1941, April 7, 1941, April 8, 1942, May 9, 1942, and February 15, 1943.

2. As amended November 23, 1940, effective December 8, 1940.

3. As amended April 8, 1942, and February 15, 1943.

(b) the net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) the quantity of grain bought and the quantity of grain sold on such contracts during the period covered by the report;

(d) the quantity of grain delivered and the quantity of grain received on such contracts during the period covered by the report; and

(e) the quantity of grain represented by delivery notices passed back to the clearing organization or passed on to other clearing members.

Sec. 2.02[3] Time and place of filing reports on Form 200. Unless otherwise authorized in writing by the Administration upon good cause shown, reports required to be made on Form 200 shall be filed in the office of the Compliance Branch of the Administration in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. If there be no office of the Compliance Branch of the Administration in such city, the reports shall be transmitted in accordance with instructions furnished by the Administration.

Sec. 2.03 Errors or omissions in reports on Form 200. Reports on Form 200 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report.

Forms 201 and 202

Sec. 2.04[4] "Special accounts" reported on Form 201. Each *futures commission merchant* and each *member* of a

3. As amended April 8, 1942, and February 15, 1943.
4. As amended April 8, 1942.

contract market, who shall carry for another person any account in any future of any grain, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in section 2.20 hereof, shall report such account daily to the Administration on Form 201 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 201.

For the purpose of reporting on Form 201, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 201 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount.

Sec. 2.05 Net position of account prior and subsequent to special account status. The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in section 2.20 hereof shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account."

Sec. 2.06[4a] Time of filing reports on Form 201. Unless otherwise authorized in writing by the Administration upon good cause shown, reports required to be made on Form 201 shall be filed with the Compliance Branch of the Administration not later than 30 minutes before the

4a. As amended April 8, 1942, and February 15, 1943.

official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Compliance Branch of the Administration has an office, may transmit such reports by mail, in accordance with instructions furnished by the Administration. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report.

Sec. 2.07 [4] Accounts reported on Form 201 shown by account number or code; identification on Form 202. Reports on Form 201 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 201 it shall be identified on Form 202, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 201. An account number or code once identified on Form 202 shall not thereafter be changed or assigned to any other account without the prior approval of the Administration.

Sec. 2.08 Persons controlling or having participating financial interest in accounts shown on Form 202. If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 201, the names and addresses of all such persons shall be shown on Form 202.

Sec. 2.09 Character of accounts shown on Form 202. In identifying accounts on Form 202 the person reporting shall indicate the character of such accounts, *i. e.*, whether hedging, spreading, speculative, or commission house.

4. As amended April 8, 1942.

Form 203

Sec. 2.10[5] Persons holding or controlling open contracts of specified size; reports on Form 203. Every *person* who holds or controls open contracts in any *one* future of any grain on any *one* contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in sec. 2.21 hereof) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Administration on Form 203. Such report shall be made *daily: Provided*, That if on any day such person has no trades or transactions in any future of a grain previously reported and there has been no change in the open contracts of such person in any such grain, the last detailed report of such person shall be considered as his report on open contracts in such grain on all intervening days. Such person shall also make a report on Form 203 covering the day on which the amount of his open contracts in such future falls below the amount fixed in section 2.21 hereof.

Sec. 2.11 Separate reports on Form 203 for each grain; information shown. Separate reports on Form 203 shall be filed covering each grain in which the person reporting has or controls open contracts in any one future which equal or exceed the amount fixed in section 2.21 hereof. Each such report shall show for the day covered thereby, by markets and by futures:

(a) the amount of open contracts held or controlled by such persons in all futures of such grain on all boards of trade in the United States and elsewhere;

(b) the character of the open contracts held or controlled, *i. e.*, whether hedging, spreading, or speculative;

(c) the amount of such grain bought and the amount sold by such person for future delivery on all boards of trade in the United States and elsewhere; and

5. As amended April 8, 1942.

(d) *the amount of such grain delivered by or to* such person in settlement of futures contracts.

For the purposes of subparagraph (b) hereof the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in paragraph (3) of section 4a of the Commodity Exchange Act.

Sec. 2.12[6] Time of filing reports on Form 203. Unless otherwise authorized in writing by the Administration upon good cause shown, reports required on Form 203 shall be filed with the Compliance Branch of the Administration as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day; *Provided*, That reports may be transmitted by mail, in accordance with instructions furnished by the Administration. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report.

Sec. 2.13[6a] Assignment of code number. Upon receipt of the first report from any person on Form 203, or upon application in advance, the Administration will assign to such person a code number. In all reports on Form 203 filed thereafter, such code number shall be used instead of the name of such person.

Sec. 2.14[6a] Books and records kept, information furnished, by persons holding or controlling open contracts of specified size. Persons having or controlling open contracts in any future of any grain on any contract market equal to or in excess of the amount fixed in section 2.21 hereof shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Administration with the

6. As amended April 8, 1942, and February 15, 1943.

6a. As amended April 8, 1942.

names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for.

Sec. 2.15[6a] Information required upon call. Each person required to report on Form 203 shall,

(a) if a partnership, furnish upon call the name and address of each partner;

(b) if a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) if an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Administration upon call in accordance with instructions contained in the call.

Form 204

Sec. 2.16[6a] Merchandisers, processors, and dealers holding or controlling open contracts of specified size to report weekly on Form 204. Every *person* who is engaged in merchandising, processing, or dealing in, grain or grain products and who holds or controls open contracts in any one future of any grain on any contract market which equal or exceed the amount fixed in section 2.21 hereof shall report to the Administration on Form 204, which report shall be rendered as of the close of business on *Friday* of each week unless otherwise authorized in writing by the Administration upon good cause shown.

Sec. 2.17 Information shown in reports on Form 204.

6a. As amended April 8, 1942.

Such report shall contain the following information with respect to *each* grain in which the person reporting holds or controls open contracts in any one future thereof on or subject to the rules of any contract market equal to or in excess of the amount fixed in section 2.21 hereof:

(a) the amount of the net long or net short cash-grain position of such person in such grain;

(b) the make-up of the cash-grain position of such person in such grain showing—

(1) the amount of stocks of such grain or products or byproducts thereof,

(2) the amount of purchase commitments open in such grain or products or byproducts thereof, and

(3) the amount of sale commitments open in such grain or products or byproducts thereof; and

(c) the amount of open contracts held by such person in all futures of such grain on all boards of trade in the United States and elsewhere.

Sec. 2.18[7] Cash-grain position; how determined. In determining the cash-grain position of any person reporting on Form 204, such person shall use such standards and conversion factors applying to grain products and byproducts as are usual and common to the business in which he is engaged. If, in determining the cash-grain position of such person for hedging purposes, it be his practice regularly to exclude certain products or byproducts, such products or byproducts shall be excluded in reporting such cash-grain position on Form 204.

Such person shall upon request furnish the Administration with detailed information concerning the kind and amount of each product or byproduct included in computing his cash-grain position and the conversion factor used for each such product or byproduct.

7. As amended April 8, 1942.

Sec. 2.19 [8] Time of filing reports on Form 204. Unless otherwise authorized in writing by the Administration upon good cause shown, reports required on Form 204 shall be filed with the Compliance Branch of the Administration not later than the next business day following the day covered by the report: *Provided,* That reports may be transmitted by mail in accordance with instructions furnished by the Administration. Reports received by mail will be considered duly filed if postmarked not later than midnight of the last day allowed for filing.

Amounts Fixed for Reporting on Forms 201, 203, and 204

Sec. 2.20 Amount fixed for reporting on Form 201. For the purpose of sections 2.04 and 2.05 of part 2 of these rules and regulations, the amount specified for reporting accounts on Form 201 is 200,000 bushels, but such specified amount shall not apply to special calls issued under authority of section 2.22 hereof.

Sec. 2.21 Amount fixed for reporting on Forms 203 and 204. For the purpose of sections 2.10, 2.11, 2.14, 2.16, and 2.17 of part 2 of these rules and regulations, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 203 and Form 204 is 200,000 bushels.

Special Calls

Sec. 2.22 [9] Special calls; reports on Form 201. Whenever in the judgment of the Director there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated grain future equal to or in

8. As amended May 9, 1942, and February 15, 1943.

9. As amended April 8, 1942, and February 15, 1943.

excess of the amount specified in the call. Such report shall be made to the Administration on Form 201, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in section 2.20 hereof shall have no application.

Sec. 2.23[9] Special calls; reports on Form 203. Whenever in the judgment of the Director there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any grain future shall, upon call, report all open contracts in grain futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Administration on Form 203 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in section 2.21 hereof shall have no application.

ORDER OF SECRETARY OF AGRICULTURE UNDER SECTION 5a (4) OF THE COMMODITY EXCHANGE ACT.

UNITED STATES OF AMERICA.

Before the Secretary of Agriculture.
(Hearing Docket C. E. A. No. 2.)

ORDER.

IN THE MATTER OF A DELIVERY PERIOD AFTER THE CLOSE OF TRADING IN FUTURES IN WHEAT, CORN, OATS, BARLEY, RYE, AND FLAXSEED.

Pursuant to the provisions of section 5a (4) of the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, sec. 7a (4)), I, H. A. Wallace, Secretary of Agriculture, after full consideration of the record made at the

9. As amended April 8, 1942, and February 15, 1943.

hearing hereinafter mentioned, do hereby find the following:

1. Due notice of a public hearing in this matter was published in the November 12, 1937, issue of the Federal Register, was sent by mail to each contract market on November 12, 1937, and was sent by mail to each registered futures commission merchant and floor broker on November 17, 1937.

2. In accordance with such notice, a public hearing was held in Room 300, Board of Trade Building, Chicago, Ill., beginning at 10 o'clock a. m. on November 30, 1937, at which all persons were given opportunity to hear, present, refute, and comment upon evidence in the premises.

3. Hedging and speculation, rather than receiving and delivering the commodity, are the purposes for which the major portion of contracts for future delivery of wheat, corn, oats, barley, rye, and flaxseed are made on contract markets.

4. Usually, a very large proportion of futures contracts in such commodities on contract markets is closed out by offset as the end of the delivery month approaches, only a small percentage being settled by delivery.

5. When it appears that there might be a scarcity of the deliverable commodity, the long interests, while not desiring the commodity itself, not infrequently stand for delivery to profit from the temporary price advance caused by the efforts of shorts to cover or to obtain the deliverable cash commodity, and a "squeeze" and market congestion occur.

6. In promoting the "squeeze" situation, longs frequently withhold supplies of the deliverable commodity in their control from the cash market, further inflating the local price, which must tumble when the delivery period ends and the longs dispose of their unwanted supplies.

7. The artificial local price thus created draws the commodity from its normal channels to the local market, where it is not needed after it is delivered, resulting in market congestion in the cash commodity and fluctuations endangering price stability.

8. If there is provision for a period of seven business days during which contracts for future delivery in the current month of wheat, corn, oats, barley, rye, or flaxseed may be settled by delivery after trading in such contracts has ceased, the longs will know in advance that the deliverable commodity can be brought into the market from a large surrounding area, and such knowledge will tend to discourage attempts to cause a "squeeze."

9. Provision for such a period of seven business days, therefore, with respect to such commodities, on every contract market on which there is trading in futures therein, will tend to prevent "squeezes" and market congestion endangering price stability.

I THEREFORE ORDER and require a period of seven business days during which contracts for future delivery in the current delivery month of wheat, corn, oats, barley, rye, or flaxseed may be settled by delivery of the actual cash commodity after trading in such contracts has ceased, for each delivery month after May 1938, on all contract markets on which there is trading in futures in any of such commodities, and I hereby direct such contract markets, and each of them, to provide therefor.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington on this 17th day of February, 1938.

HENRY A. WALLACE,
Secretary of Agriculture.

(Seal)

ORDERS OF COMMODITY EXCHANGE COMMISSION UNDER SECTION 4a OF THE COMMODITY EXCHANGE ACT.

UNITED STATES OF AMERICA.

Before the Commodity Exchange Commission.
(Hearing Docket C. E. A. No. 3.)

FINDINGS OF FACT, CONCLUSIONS, AND ORDER.

IN THE MATTER OF LIMITS ON POSITION AND DAILY TRADING IN WHEAT, CORN, OATS, BARLEY, RYE, AND FLAXSEED, FOR FUTURE DELIVERY.

As used herein, the word "grain" includes wheat, corn, oats, barley, rye, and flaxseed, and the word "person" includes individuals, associations, partnerships, corporations, and trusts.

Findings of Fact.

Pursuant to the provisions of Section 4a of the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, sec. 6a), the Commodity Exchange Commission, after full consideration of the record made at a public hearing held in Chicago, Illinois, beginning December 1, 1937, of which due public notice had been given, and at which all persons were given opportunity to hear, present, refute, and comment upon evidence in the premises, does hereby find the following:

A. Except as otherwise stated herein, trading in any one grain for future delivery on a contract market, by a person who holds or controls a speculative net position of more than 2,000,000 bushels, long or short, in any one future or in all futures combined, in such grain on such contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand,

and is not needed to maintain market liquidity or to facilitate hedging on such contract market.

B. A speculative long or short position in excess of 2,000,000 bushels consisting of spreads in any one grain between markets is less likely to cause sudden and unreasonable fluctuations and changes in price than that mentioned in paragraph A hereof.

C. Except as otherwise stated herein, speculative buying or speculative selling by any person during one business day of more than 2,000,000 bushels in any one future, or in all futures combined, in any one grain on any one contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand and is not needed to maintain market liquidity or to facilitate hedging on such contract market.

D. The buying or selling of amounts in excess of 2,000,000 bushels in any one future is less likely to cause sudden and unreasonable fluctuations and changes in price than that mentioned in paragraph C hereof if such buying or selling consists of spreads in any one grain between markets.

Conclusions.

Upon the foregoing facts, it is concluded that in order to diminish, eliminate, or prevent the undue burden of excessive speculation in grain futures which causes unwarranted price changes, it is necessary to establish limits on the amount of speculative trading, under contracts of sale of grain for future delivery on contract markets, which may be done by any one person; that 2,000,000 bushels is a reasonable limitation on the net long or net short position which any person may hold or control and upon the daily purchases or sales which any person may make, in any one grain on any one contract market, in any one future or all futures combined; that a higher limitation should be

fixed for net position and for purchases and sales if any part thereof represents spreading in the same grain between markets, and 3,000,000 bushels is a reasonable limitation under such circumstances, but in no event should the increase over 2,000,000 bushels exceed the amount of the net position represented by spreading nor should a spread include more than 2,000,000 bushels in any one future.

Order.

It Is Hereby Ordered That the following limits on the amount of trading under contracts of sale of grain for future delivery on or subject to the rules of contract markets which may be done by any person be, and they are hereby, proclaimed and fixed, to be in full force and effect on and after December 31, 1938:

Position Limits.

1. The limit on the maximum net long or net short position which any one person may hold or control in any one grain on any one contract market, except as specifically authorized by paragraph 2 hereof, is: 2,000,000 bushels in any one future or in all futures combined.

2. To the extent that the net position held or controlled by any one person in all futures combined in any one grain on any one contract market is shown to represent spreading in the same grain between markets, the limit on net position in all futures combined set forth in paragraph 1 hereof may be exceeded on such contract market, but in no case shall the excess result in a net position of more than 3,000,000 bushels in all futures combined nor more than 2,000,000 bushels in any one future.

Daily Trading Limits.

3. The limit on the maximum amount which any person may buy, and on the maximum amount which any person

may sell, of any one grain on any one contract market during any one business day, except as specifically authorized by paragraph 4 hereof, is: 2,000,000 bushels in any one future or in all futures combined.

4. To the extent that purchases or sales of any one grain on any one contract market during any one business day made by any person are shown to represent spreading, or the closing of spreads, in the same grain between markets, the limit set forth in paragraph 3 hereof may be exceeded on such contract market, but in no case shall the excess result in total purchases of more than 3,000,000 bushels, or total sales of more than 3,000,000 bushels, and in no event shall such person's total purchases or total sales, during any one business day, in any one future exceed 2,000,000 bushels.

The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions as defined in paragraph (3) of section 4a of the Commodity Exchange Act.

Nothing contained in these Findings of Fact, Conclusions, or Order shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market, or its governing board, from responsibility to prevent manipulation and corners under paragraph (d) of section 5 of the Commodity Exchange Act.

In testimony whereof we have hereunto affixed our respective signatures this 22nd day of December, 1938.

H. A. WALLACE
Secretary of Agriculture,
Chairman

DANIEL C. ROPER
Secretary of Commerce

HOMER CUMMINGS
Attorney General